

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DAWNE LOUISE EARP

Registered Nurse License No. 658079

Respondent

Case No. 2012-356

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **December 17, 2012**.

IT IS SO ORDERED **December 17, 2012**.



Board of Registered Nursing
Department of Consumer Affairs
State of California

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-356

13 **DAWNE LOUISE EARP**
14 **4015 East 15th Street**
Long Beach, CA 90804

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 **Registered Nurse License No. 658079**

16 Respondent.

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
23 Registered Nursing. She brought this action solely in her official capacity and is represented in
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Amanda Dodds,
25 Senior Legal Analyst.

26 2. Dawne Louise Earp (Respondent) is representing herself in this proceeding and has
27 chosen not to exercise her right to be represented by counsel.

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3. On or about May 27, 2005, the Board of Registered Nursing issued Registered Nurse License No. 658079 to Respondent. The Registered Nurse License expired on January 31, 2011, and has not been renewed.

JURISDICTION

4. Accusation No. 2012-356 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 9, 2011. A copy of Accusation No. 2012-356 is attached as Exhibit A and incorporated by reference. Respondent failed to file a Notice of Defense contesting the Accusation. On July 5, 2012, the Board issued a decision revoking Respondent's license, effective August 3, 2012. The Board granted Respondent's Petition for Reconsideration and accepted the late filing of her Notice of Defense.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2012-356. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2012-356, agrees that cause exists for discipline and hereby surrenders her Registered Nurse
4 License No. 658079 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board to issue
6 an order accepting the surrender of her Registered Nurse License without further process.

7 **CONTINGENCY**

8 10. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 surrender, without notice to or participation by Respondent. By signing the stipulation,
12 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
13 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
14 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be
15 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
16 between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
19 License and Order, including facsimile signatures thereto, shall have the same force and effect as
20 the originals.

21 12. This Stipulated Surrender of License and Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
25 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
26 executed by an authorized representative of each of the parties.

27 13. In consideration of the foregoing admissions and stipulations, the parties agree that
28 the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 658079, issued to Respondent Dawne Louise Earp, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Registered Nursing.

2. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2012-356 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Should Respondent's license be reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,075.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

6. Should Respondent apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2012-356 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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1 7. Respondent shall not apply for licensure or petition for reinstatement for two (2)
2 years from the effective date of the Board of Registered Nursing's Decision and Order.

3 **ACCEPTANCE**

4 I have carefully read the Stipulated Surrender of License and Order. I understand the
5 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
6 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
7 by the Decision and Order of the Board of Registered Nursing.

8
9 DATED:

9-7-12



DAWNE LOUISE EARP
Respondent

11 **ENDORSEMENT**

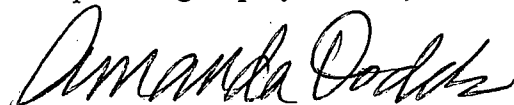
12 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
13 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

14
15 Dated:

9/17/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



AMANDA DODDS
Senior Legal Analyst
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-356

356-255-50 12/1/12

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-356**

13 **DAWNE LOUISE EARP**
14 **1505 Calle Sacramento #A**
San Clemente, CA 92672

ACCUSATION

15 **Registered Nurse License No. RN 658079**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about May 27, 2005, the Board of Registered Nursing issued Registered Nurse
24 License Number RN 658079 to Dawne Louise Earp (Respondent). The Registered Nurse License
25 expired on January 31, 2011, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

9

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

12

13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge substantially related to the qualifications, functions and duties of a
registered nurse is deemed to be a conviction within the meaning of this article. The
16 board may order the license or certificate suspended or revoked, or may decline to
issue a license or certificate, when the time for appeal has elapsed, or the judgment of

17 conviction has been affirmed on appeal or when an order granting probation is made
18 suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
19 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information or indictment.

20 REGULATORY PROVISIONS

21 11. California Code of Regulations, title 16, section 1444, states:

22 A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
24 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

25 (a) Assaultive or abusive conduct including, but not limited to, those violations
26 listed in subdivision (d) of Penal Code Section 11160.

27 (b) Failure to comply with any mandatory reporting requirements.

28 (c) Theft, dishonesty, fraud, or deceit.

1 (d) Any conviction or act subject to an order of registration pursuant to Section
2 290 of the Penal Code.

3 12. California Code of Regulations, title 16, section 1445 states:
4

5 (b) When considering the suspension or revocation of a license on the grounds
6 that a registered nurse has been convicted of a crime, the board, in evaluating the
7 rehabilitation of such person and his/her eligibility for a license will consider the
8 following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offense(s).

12 (4) Whether the licensee has complied with any terms of parole, probation,
13 restitution or any other sanctions lawfully imposed against the licensee.

14 (5) If applicable, evidence of expungement proceedings pursuant to Section
15 1203.4 of the Penal Code.

16 (6) Evidence, if any, of rehabilitation submitted by the licensee.

17 COSTS

18 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licensee found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 CAUSE FOR DISCIPLINE

23 (July 8, 2011 Criminal Conviction for Second Degree Commercial Burglary)

24 14. Respondent has subjected her license to disciplinary action under sections 490 and
25 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
26 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
27 follows:

28 a. On or about July 8, 2011, in a criminal proceeding entitled *People of the State
of California v. Dawne Louise Earp*, in Orange County Superior Court, case number 11CF0749,
Respondent was convicted on her plea of guilty of violating Penal Code section 459-460,

1 subdivision (b), second degree commercial burglary, a felony. Respondent's plea agreement
2 dismissed additional felony charges of passing fictitious instruments (in violation of Penal Code
3 section 476), and identity theft (in violation of Penal Code section 530.5, subdivision (a)).

4 b. As a result of the conviction, on or about July 8, 2011, Respondent was
5 sentenced to three years formal probation and ordered to serve 120 days in the Orange County
6 Jail, with credit for 33 days. Respondent was ordered to pay \$6,000 in restitution to Bank of
7 America, as well as restitution to the victims in the dismissed counts. Respondent was further
8 ordered to pay fees, fines, and restitution, and comply with the terms of felony probation.

9 c. The facts that led to the conviction are that investigators for Bank of America
10 (BOA) were alerted to a large-scale enterprise that was responsible for check fraud and identity
11 theft against BOA account holders. The U.S. Secret Service led the investigation. Along with
12 detectives from the Orange County Sheriff's Department, it was discovered that the group would
13 recruit BOA employees to provide account and account holder personal information. Using that
14 information, the group would then create fraudulent checks for the same account. The
15 organization would pay recruits to open new banks accounts and deposit the fraudulent checks. If
16 the bank called the account holder to verify a check, the call would be diverted to the organization
17 because the organization had also used the account holders' personal information to change their
18 phone number with the telephone company. The recruits would receive a small cut of the money
19 and the rest of the profits would go to the organization. On or about May 21, 2011, Respondent
20 cashed a fraudulent \$6,000 check against a family trust account at a Huntington Beach BOA
21 branch.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 658079, issued to Dawne Louise Earp;
2. Ordering Dawne Louise Earp to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: December 09, 2011

for *Louise R. Bailey*
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2011801624